

## § 512.1

512.27 Recovery when paying agency is not creditor agency.

### Subpart D—Interest, Penalties, and Administrative Costs

512.28 Assessment.

512.29 Exemptions.

AUTHORITY: 31 U.S.C. 3701; 31 U.S.C. 3711 et seq.; 5 U.S.C. 5514; 4 CFR Parts 101–105; 5 CFR Part 550.

SOURCE: 52 FR 43897, Nov. 17, 1987, unless otherwise noted.

### Subpart A—General Provisions

#### § 512.1 Definitions.

(a) The term *Board* means the Broadcasting Board of Governors.

(b) The term *Board head* means the Director, Broadcasting Board of Governors.

(c) The term *appropriate Board official* or *designee* means the Chief, Financial Operations Division or such other official as may be named in the future by the Director, Broadcasting Board of Governors.

(d) The terms *debt* or *claim* refer to an amount of money which has been determined by an appropriate Board official to be owed to the United States from any person, organization or entity, except another Federal Agency.

(e) A debt is considered *delinquent* if it has not been paid by the date specified in the Board's written notification or applicable contractual agreement, unless other satisfactory arrangements have been made by that date, or at any time thereafter the debtor fails to satisfy obligations under a payment agreement with the Board.

(f) The term *referral for litigation* means referral to the Department of Justice for appropriate legal proceedings.

#### § 512.2 Exceptions.

(a) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 shall be determined, collected, compromised, terminated, or settled in accordance with the regulations published under 31 U.S.C. 3726 (refer to 41 CFR part 101–41).

(b) Claims arising out of acquisition contracts subject to the Federal Acquisition Regulation (FAR) shall be deter-

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mined, collected, compromised, terminated or settled in accordance with those regulations (see 48 CFR part 32). If not otherwise provided for in the FAR system, contract claims that have been the subject of a contracting officer's final decision in accordance with section 6(a) of the Contracts Disputes Act of 1978 (41 U.S.C. 605(a)), may be determined, collected, compromised, terminated, or settled under the provisions of this regulation, except no additional review of the debt shall be granted beyond that provided by the contracting officer in accordance with the provisions of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605), and the amount of any interest, administrative charge, or penalty charge shall be subject to the limitations, if any, contained in the contract out of which the claim arose.

(c) Claims based in whole or in part on conduct in violation of the antitrust laws, or in regard to which there is an indication of fraud, presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, shall be referred to the Department of Justice (DOJ) as only the DOJ has the authority to compromise, suspend or terminate collection action on such claims.

(d) Tax claims are excluded from the coverage of this regulation.

#### § 512.3 Use of procedures.

Procedures authorized by this regulation (including but not limited to referral to a debt collection agency, administrative offset, or salary offset) may be used singly or in combination, providing the requirements of the applicable law and regulation are satisfied.

#### § 512.4 Conformance to law and regulations.

(a) The requirements of applicable law (31 U.S.C. 3701–3719 as amended by Pub. L. 97–365, (96 Stat. 1749) have been implemented in Government-wide standards:

(1) The regulations of the Office of Personnel Management (5 CFR part 550).

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(2) The Federal Claims Collection Standards issued jointly by the General Accounting Office and the Department of Justice (4 CFR parts 101-105), and

(3) The procedures prescribed by the Office of Management and Budget in Circular A-129 of May 9, 1985.

(b) Not every item in the above described standards has been incorporated or referenced in this regulation. To the extent, however, that circumstances arise which are not covered by the terms stated in this regulation, Broadcasting Board of Governors will proceed in any actions taken in accordance with applicable requirements found in the sources referred to in paragraphs (a)(1), (2), and (3) of this section.

### **§512.5 Other procedures.**

Nothing contained in this regulation is intended to require Broadcasting Board of Governors to duplicate administrative proceedings required by contract or other laws or regulations.

### **§512.6 Informal action.**

Nothing in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

### **§512.7 Return of property.**

Nothing contained in this regulation is intended to deter Broadcasting Board of Governors from demanding the return of specific property or from demanding the return of the property or the payment of its value.

### **§512.8 Omissions not a defense.**

The failure of Broadcasting Board of Governors to comply with any provision in this regulation shall not serve as a defense to the debt.

## **Subpart B—Administrative Offset and Referral to Collection Agencies**

### **§512.9 Demand for payment.**

Prior to initiating administrative offset, demand for payment will be made as follows:

(a) Written demands will be made promptly upon the debtor in terms

which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, Broadcasting Board of Governors will give due regard to the need to act promptly so that, as a general rule, debt referrals to the Department of Justice for litigation, where necessary, can be made within one year of the Board's final determination of the fact and the amount of the debt. When necessary to protect the Government's interests (e.g., to prevent the statute of limitations, 28 U.S.C. 2415, from expiring) written demand may be preceded by other appropriate actions under this chapter, including immediate referral for litigation.

(b) The initial demand letter will inform the debtor of: The basis for the indebtedness and the right of the debtor to request review within the Board; the applicable standards for assessing interest, penalties, and administrative costs (Supart D of this regulation) and; the date by which payment is to be made, which normally will not be more than 30 days from the date that the initial demand letter was mailed or hand delivered. Broadcasting Board of Governors will exercise care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated.

(c) As appropriate to the circumstances, Broadcasting Board of Governors will include in the demand letters matters relating to alternative methods of payment, the debtor's rights to representation by his respective bargaining unit, policies relating to referral to collection agencies, the Board's intentions relative to referral of the debt to the Department of Justice for litigation, and, depending on the statutory authority, the debtor's entitlement to consideration of waiver.

(d) Broadcasting Board of Governors will respond promptly to communications from the debtor and will advise debtors who dispute the debt that they